

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF:

BP PRODUCTS NORTH AMERICA INC.,
CHEVRON U.S.A. INC., SALT LAKE
CITY CORPORATION, AND SALT
LAKE COUNTY,

Respondents.

**ADMINISTRATIVE ORDER ON
CONSENT FOR REMOVAL ACTION**

U.S. EPA Region 8

Docket No. **CERCLA-08-2003-0014**

Proceeding Under Sections 104, 107 and 122
of the Comprehensive Environmental
Response, Compensation, and Liability Act,
as amended, 42 U.S.C. §§ 9604, 9607 and
9622.

I. JURISDICTION AND GENERAL PROVISIONS

1. This Administrative Order on Consent ("Order") is entered into voluntarily by the United States Environmental Protection Agency, Region 8 ("EPA") and BP Products North America Inc., Chevron U.S.A. Inc., Salt Lake City Corporation and Salt Lake County ("Respondents"). This Order provides for the performance of the Work by each Respondent as provided in the attached Statement of Work and for the reimbursement of certain response costs incurred by the United States in connection with the property, known as the "Northwest Oil Drain Site" or "NWOD" or the "Site". The Site is more particularly described by the map attached hereto as Appendix 1. This Order requires the Respondents to conduct the Work described herein to abate an endangerment to the public health, welfare or the environment that may be presented by the actual or threatened release of hazardous substances, at or from the Site.

2. This Order is issued pursuant to the authority vested in the President of the United States by Sections 104, 107 and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. §§ 9604, 9607 and 9622, as amended ("CERCLA"), and delegated to the Administrator of the EPA by Executive Order No. 12580, January 23, 1987, 52 Federal Register 2923, and further delegated to the EPA Regional Administrators by EPA Delegation Nos. 14-14-A and 14-14-C and 14-14-D and further to the signatories of this Order. This Order has been approved by the Attorney General or his designee in accordance with Section 122(h)(1) of CERCLA, 42 U.S.C. § 9622(h)(1), and pursuant to the Attorney General's inherent authority to resolve claims of the United States.

3. Respondents' participation in this Order shall not constitute or be construed as an admission of liability or of EPA's findings or determinations contained in this Order except in a proceeding to enforce the terms of this Order. Respondents agree to comply with and be bound by the terms of this Order. Respondents further agree that they will not contest the basis or validity of this Order or its terms.

II. PARTIES BOUND

4. This Order applies to and is binding upon EPA and upon Respondents and their successors and assigns. Any change in ownership or corporate status of any Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter any Respondent's responsibilities under this Order.

5. Respondents shall ensure that their contractors, subcontractors, and representatives receive a copy of this Order and comply with this Order. Respondents BP Products North America Inc., Chevron USA Inc. and Salt Lake City Corporation shall be jointly and severally responsible for any noncompliance with this Order; Salt Lake County shall only be liable for performance of the Work it has agreed to perform in the County Work Area.

III. DEFINITIONS

"Action Memorandum" shall mean the EPA Action Memorandum relating to the Northwest Oil Drain Site signed on April 29, 2003 by Max H. Dodson, Assistant Regional Administrator for the Office of Ecosystems Protection and Remediation, U.S. EPA Region 8. The Action Memorandum is attached hereto as Appendix 3.

"CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq.

"Consent Order" or **"Order"** shall mean this Administrative Order on Consent and all appendices attached hereto. In the event of conflict between this Order and any appendix, the Order shall control.

"County Work Area" shall mean that portion of the NWOD, specifically, the Downstream Area, where the County agrees to perform the Work required by the Work Plan.

"Day" shall mean a calendar day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

"Downstream Area" shall mean Segment 4 (from station 155+00 to station 355+00) and Segment 5 (from station 355+00 to station 458+00) of the Sewage Canal from the City drain to

the Great Salt Lake, as described in the "Northwest Oil Drain Site Characterization Technical Memorandum," July 10, 2001.

"Effective Date" shall be the effective date of this Order as provided in Section XXII.

"EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies.

"EPA Hazardous Substance Superfund" shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

"Future Response Costs" are all costs, including, but not limited to, direct and indirect costs, that the United States incurs in reviewing or developing plans, reports and other items pursuant to this Order, verifying the Work, or otherwise implementing, overseeing, or enforcing this Order, including, but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, or any other direct and indirect costs, incurred and paid by the United States in connection with the Site after the effective date of this Order.

"Interest" shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded on October 1 of each year, in accordance with 42 U.S.C. § 9607(a).

"Matters Addressed" means the **"Work"** Respondents agree to perform in their respective **Work Areas**, as defined herein, the contamination described in Paragraphs 6 and 7 herein that will be addressed through the **"Work"** and all **"Response Costs"** at the Site, as those terms are further defined in this Order. Accordingly, **"Matters Addressed"** for BP Products North America Inc., Chevron U.S.A. Inc. and Salt Lake City Corporation include performance of the **Work** within the **"PRP Group Work Area"** as defined herein and **Past Response Costs** and **Future Response Costs**. **"Matters Addressed"** for Salt Lake County include performance of the **Work** at the **"County Work Area"** as defined herein and **Past Response Costs** and **Future Response Costs**. For all Respondents, **"Matters Addressed"** specifically excludes EPA's rights to enforce those matters set forth in Section XIII (Reservation of Rights) of this Order.

"Paragraph" shall mean a portion of this Consent Order identified by an Arabic numeral.

"Parties" shall mean EPA and the Respondents.

"Past Response Costs" are all costs, including but not limited to, direct and indirect costs, that the United States has paid at or in connection with the Site prior to the effective date of this Order and any Interest that may have accrued on those costs through the effective date of this Order.

“PRP Group Work Area” shall mean the entire length of the NWOD, including, Segments 1 through 5 and the non-flowing segment where BP Products North America Inc., Chevron U.S.A. Inc. and Salt Lake City Corporation agree to be jointly and severally liable for performance of the **Work** required by the **Work Plan**.

“Respondents” shall mean BP Products North America Inc., Chevron USA Inc., Salt Lake City Corporation, Salt Lake County and any successor corporations or legal entities. The term **“PRP Respondents”** shall refer to BP Products North America Inc., Chevron USA Inc. and Salt Lake City Corporation, but shall not include Salt Lake County.

“Response Costs” shall mean all costs of "response" as that term is defined by Section 101(25) of CERCLA, including **Past Response Costs** and **Future Response Costs**, as those terms are defined herein.

“Section” shall mean a portion of this Consent Order identified by a roman numeral.

“Site” shall mean the property known as the Northwest Oil Drain, and more particularly described by the map attached hereto as Appendix 1.

“Statement of Work” shall mean the document attached hereto as Appendix 2 that provides a general but preliminary description of the Work to be developed more specifically in the Work Plan.

“United States” shall mean the United States of America, including its departments, agencies and instrumentalities.

“Upstream Area” shall mean Segment 1 (from station 3+80 to station 39+00), Segment 2 (from station 39+00 to station 115+00), and Segment 3 (from station 115+00 to station 155+00), above the City Drain, and the non-flowing segment of the NWOD above these segments, as described in the "Northwest Oil Drain Site Characterization Technical Memorandum, July 10, 2001.

“Work” shall mean those activities Respondents are required to perform under the **Work Plan**. These activities are necessary to implement the removal response action selected by EPA in the Action Memorandum as defined herein.

“Work Plan” shall mean the EPA-approved document developed pursuant to Paragraph 16 of this Order and identifying the activities and tasks to be performed by the Respondents to implement the removal action selected in the **“Action Memorandum,”** as defined herein. This **Work Plan** may include discrete tasks to be performed by different Respondents and a schedule of milestones for measuring progress in conducting the **“Work.”**

IV. FINDINGS OF FACT

6. The Northwest Oil Drain ("NWOD") is a series of former and existing unlined canals located in northern Salt Lake County, northwest of downtown Salt Lake City, Utah. The canals were used for the disposal of oil refinery sludges and residues and other municipal and industrial waste waters and storm waters beginning in approximately 1922. Historically, the system consisted of a series of canals which transported industrial waste and municipal storm water to the Great Salt Lake. The main canal flowed north along 800 West, then west just north of 1000 North, then north again at approximately 1000 West. At approximately 1400 North, the canal turns west and then north again along the border of the Rose Park disposal site. Just to the north of the Rose Park site, the Northwest Oil Drain takes a turn to a north-northwest direction and joins with the Boy Scout Drive storm drain, coming from the south along 1200 West. The channels of both of these canals have been filled in south of approximately 1500 North. However, the NWOD continues to collect and divert water discharges, which enter the system immediately below the confluence of the canals from pipelines used to replace the filled-in sections of the canals.

7. Among the wastes discharged to the canals of the NWOD during its years of operation were oily and sewage sludges, rich in organic matter. Sample analyses of the sludge in upstream segments of the NWOD indicate elevated concentrations of organics, such as benzene, and metals, especially lead, copper and arsenic. The analyses of samples collected in the Downstream Area do not reveal the same concentrations or characteristics of the samples collected in the Upstream Area.

V. CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the Findings of Fact set forth above, and the Administrative Record supporting this removal action, EPA has determined that:

8. The Northwest Oil Drain is a "facility" as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

9. The contaminants found at the Site, as identified in the Findings of Fact above, include "hazardous substance(s)" as defined by Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

10. Each Respondent is a "person" as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

11. Each Respondent may be liable under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).

12. The conditions described in the Findings of Fact above constitute an actual or threatened "release" of a hazardous substance from the facility as defined by Sections 101(22) of CERCLA, 42 U.S.C. § 9601(22).

13. The removal actions required by this Order are necessary to protect the public health and welfare or the environment and are not inconsistent with the NCP.

VI. ORDER

Based upon the foregoing Findings of Fact, Conclusions of Law, Determinations, and the Administrative Record for this Site, it is hereby ordered and agreed that Respondents shall comply with the following provisions, including but not limited to all attachments to this Order and all documents incorporated by reference into this Order, and perform the following actions:

14. Designation of Contractor, Project Coordinator, and On-Scene Coordinator

a. Respondents shall perform the Work required by this Order or retain (a) contractor(s) to perform the Work. Respondents shall notify EPA of Respondents' qualifications or the name(s) and qualification(s) of such contractor(s) within 45 business days of the effective date of this Order. Respondents shall also notify EPA of the name(s) and qualification(s) of any other contractor(s) or subcontractor(s) retained to perform the removal action under this Order at least 20 days prior to commencement of such removal action. EPA retains the right to disapprove of any, or all, of the contractors and/or subcontractors retained by Respondents, or of Respondents' choice to conduct the removal action themselves. If EPA disapproves of a selected contractor, Respondents shall retain a different contractor or notify EPA that they will perform the removal action themselves within 45 business days following EPA's disapproval and shall notify EPA of that contractor's name and qualifications within 45 business days of EPA's disapproval.

b. Within 20 days after the effective date of this Order, the PRP Respondents and the County shall designate a Project Coordinator for their respective Work Areas who shall be responsible for administration of all the Respondents' actions required by the Order. Respondents shall submit the designated coordinator's name, address, telephone number, and qualifications to EPA. To the greatest extent possible, the Project Coordinator(s) shall be present on site or readily available during site work. EPA retains the right to disapprove of any Project Coordinator named by the Respondents. If EPA disapproves of a selected Project Coordinator, Respondents shall retain a different Project Coordinator and shall notify EPA of that person's name, address, telephone number, and qualifications within 10 business days following EPA's disapproval. Receipt by Respondents' Project Coordinator(s) of any notice or communication from EPA relating to this Order shall constitute receipt by Respondents.

c. EPA has designated Russell LeClerc of the Office of Ecosystems Protection and Remediation as its On-Scene Coordinator (OSC). Respondents shall direct all submissions required by this Order to the OSC at mail code 8EPR-ER, 999 18th Street, Suite 300, Denver, CO 80202-2466. EPA and Respondents shall have the right, subject to the immediately proceeding paragraph, to change its/their designated OSC or Project Coordinator(s). Respondents shall notify EPA, 10 business days before such a change is made. The initial notification may be made orally, but it shall be promptly followed by a written notice.

15. Work to Be Performed

Respondents shall perform, at a minimum, the Work. The Work shall implement actions selected in the Action Memorandum and the Engineering Evaluation/Cost Analysis, which are attached hereto as Appendices 3 and 4 respectively.

16. Work Plan and Implementation

a. Within 60 days of Respondent's selection of (a) contractor(s) pursuant to paragraph 14(a) herein, the Respondents shall submit to EPA for approval a draft Work Plan for performing the removal action set forth above. The draft Work Plan shall provide a description of, and an expeditious schedule for, the actions required by this Order. This draft Work Plan can be submitted either as one comprehensive Work Plan for the entire Site or as 2 work plans, one for the PRP Group Work Area and one for the County Work Area.

b. EPA may approve, disapprove, require revisions to, or modify the draft Work Plan. If EPA requires revisions, Respondents shall submit a revised draft Work Plan within 30 days of receipt of EPA's notification of the required revisions. Stipulated penalties shall not accrue during any such period. Respondents shall implement the Work Plan as finally approved in writing by EPA in accordance with the schedule approved by EPA. Once approved, or approved with modifications, the Work Plan, the schedule, and any subsequent modifications shall be fully enforceable under this Order. Respondents shall notify EPA at least 48 hours prior to performing any on-site work pursuant to the EPA-approved Work Plan. Respondents shall not commence or undertake any removal action on the site without prior EPA approval.

c. The draft Work Plan(s) shall also include a proposal for performance of post-removal site control measures and/or confirmation sampling, to the extent necessary, to be implemented in each segment of the NWOD once the Work has been completed. This proposal shall be consistent with the requirements of Section 300.415(l) of the NCP and with OSWER Directive 9360.2-02. This proposal must be approved by EPA prior to its implementation and must be implemented within 30 days of completion of the removal action.

17. Health and Safety Plan

At the same time Respondents submit their draft Work Plan pursuant to paragraph 16(a) herein, the Respondents shall also submit for EPA review and comment a plan that ensures the protection of the public health and safety during performance of on-site work under this Order. This plan shall be prepared in accordance with all current applicable Occupational Safety and Health Administration (OSHA) regulations found at 29 C.F.R. Part 1910. Respondents shall incorporate all changes to the plan recommended by EPA, and implement the plan during the pendency of the removal action.

18. Quality Assurance and Sampling

All sampling and analyses performed pursuant to this Order shall conform to EPA's direction, approval, and guidance regarding sampling, quality assurance/quality control (QA/QC), data validation, and chain of custody procedures. Respondents shall ensure that the laboratory used to perform the analyses participates in a QA/QC program that complies with the appropriate EPA guidance. Respondents shall provide to EPA the quality assurance/quality control procedures followed by all sampling teams and laboratories performing data collection and/or analysis.

19. Reporting

a. Respondents shall submit written progress reports to EPA concerning actions undertaken pursuant to this Order as required by the EPA-approved Work Plan until this Order is terminated, unless otherwise directed by the OSC in writing. These reports shall describe all significant developments during the preceding period, including the actions performed and any problems encountered, analytical data received during the reporting period, and the developments anticipated during the next reporting period, including a schedule of actions to be performed, anticipated problems, and planned resolutions of past or anticipated problems.

b. Any Respondent that owns any portion of the Site shall, at least 30 days prior to the conveyance of any interest in real property at the Site, give written notice that the property is subject to this Order to the transferee and written notice to EPA of the proposed conveyance, including the name and address of the transferee. Respondents agree to require that its successor comply with the immediately proceeding sentence and Paragraph 21 (Access to Property and Information).

20. Final Report

Within 60 days after completion of all removal actions required under this Order, the Respondents shall submit for EPA review and approval a final report summarizing the actions taken to comply with this Order and costs incurred. The final report shall include a good faith estimate of total costs or a statement of actual costs incurred by all Respondents in complying

with this Order, a listing of quantities and types of materials removed off-Site or managed on-Site, a discussion of removal and disposal options considered for those materials, a listing of the ultimate destination(s) of those materials, a presentation of analytical results of all sampling and analyses performed, and accompanying appendices containing all relevant documentation generated during the removal action (*e.g.*, manifests, invoices, bills, contracts, permits, etc.). The final report shall include the following certification signed by a person who supervised or directed the preparation of that report:

Under penalty of law, I certify that to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of the report, the information submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

21. Access to Property and Information

a. Respondents shall provide, and/or obtain access to the Site and off-site areas to which access is necessary to implement this Order and provide access to all records and documentation related to the conditions at the Site and the actions conducted pursuant to this Order. Such access shall be provided to EPA employees, contractors, agents, consultants, designees, representatives, and State of Utah representatives. These individuals shall be permitted to move freely at the Site and appropriate off-site areas in order (in accordance with the Site Health and Safety Plan) to conduct actions which EPA determines to be necessary. Respondents shall submit to EPA, upon receipt, the results of all sampling or tests and all other data generated by Respondents or their contractor(s), or on the Respondents' behalf during implementation of this Order.

b. Where action under this Order is to be performed in areas owned by or in possession of someone other than Respondents, Respondents shall use best efforts to obtain all necessary access agreements within 30 days after the effective date of this Order, or as otherwise specified in writing by the OSC. Respondents shall immediately notify EPA if after using its best efforts it is unable to obtain such agreements. Respondents shall describe in writing its efforts to obtain access. EPA may then assist Respondents in gaining access, to the extent necessary to effectuate the response actions described herein, using such means as EPA deems appropriate. Respondents shall reimburse EPA for all costs and attorney's fees incurred by the United States in obtaining such access.

22. Record Retention, Documentation, Availability of Information

a. Respondents shall preserve all documents and information relating to the Work performed under this Order, or relating to the hazardous substances found on or released

from the Site, for five (5) years following completion of the removal actions required by this Order. At the conclusion of the document retention period, Respondents shall notify the United States at least ninety (90) days prior to the destruction of any such records or documents, and, upon request by EPA, Respondents shall deliver any such records or documents to EPA. In addition, Respondents shall provide documents and information retained under this Section at any time before expiration of the five-year period at the written request of EPA.

b. Respondents may assert a business confidentiality claim pursuant to 40 CFR § 2.203(b) with respect to part or all of any information submitted to EPA pursuant to this Order, provided such claim is allowed by Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7). Analytical and other data specified in Section 104(e)(7)(F) of CERCLA shall not be claimed as confidential by the Respondents. EPA shall disclose information covered by a business confidentiality claim only to the extent permitted by, and by means of the procedures set forth at, 40 CFR Part 2, Subpart B. If no such claim accompanies the information when it is received by EPA, EPA may make it available to the public without further notice to Respondents.

c. Each Respondent hereby certifies individually that to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents or other information (other than identical copies) relating to its potential liability regarding the Site since notification of potential liability by EPA or the State or the filing of suit against it regarding the Site and that it has fully complied with any and all EPA requests for information pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

23. Compliance With Other Laws

Respondents shall perform all actions required pursuant to this Order in accordance with all applicable local, state, and federal laws and regulations except as provided in CERCLA Section 121(e) and 40 C.F.R. Section 300.415(i). In accordance with 40 C.F.R. Section 300.415(i), all on-site actions required pursuant to this Order shall, to the extent practicable, as determined by EPA, considering the exigencies of the situation, attain applicable or relevant and appropriate requirements (ARARs) under federal environmental or state environmental or facility siting laws. (See "The Superfund Removal Procedures: Guidance on the Consideration of ARARs During Removal Actions," OSWER Directive No. 9360.3-02, August 1991). All hazardous substances removed off-Site pursuant to this Order for treatment, storage or disposal shall be treated, stored or disposed of at a facility in compliance with CERCLA Section 121(d)(3) and 40 C.F.R. Section 300.440 ("procedures for planning and implementing off-site response actions"). EPA Region 8 will provide the information to Respondents regarding the acceptability of a facility under Section 121(d)(3) of CERCLA and 40 C.F.R. Section 300.440.

24. Emergency Response and Notification of Releases

If any incident, or change in site conditions, during the actions conducted pursuant to this Order causes or threatens to cause an additional release of hazardous substances, pollutants or contaminants from the Site or an endangerment to the public health or welfare or the environment, the Respondents shall immediately take all appropriate action. The Respondents shall take these actions in accordance with all applicable provisions of this Order, including, but not limited to the Health and Safety Plan, in order to prevent, abate or minimize such release or endangerment caused or threatened by the release. Respondents shall also immediately notify the OSC or, in the event of his/her unavailability, shall notify the Regional Duty Officer at the EPA Regional Emergency 24-hour telephone number, (303) 293-1788, of the incident or site conditions. Respondents shall also submit a written report to EPA within seven (7) days after each release, describing the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. This reporting requirement is in addition to, not in lieu of, reporting under CERCLA Section 103(a) and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. Section 11001, *et. seq.* If Respondents fail to respond, EPA may respond to the release or endangerment and reserves the right to pursue cost recovery.

VII. AUTHORITY OF THE EPA ON-SCENE COORDINATOR

25. The OSC shall be responsible for overseeing the Respondents' implementation of this Order. The OSC shall have the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any work required by this Order, or to direct any other removal action undertaken at the Site. Absence of the OSC from the Site shall not be cause for stoppage of work unless specifically directed by the OSC.

VIII. REIMBURSEMENT OF COSTS

26 a. Respondents shall reimburse EPA for Past Response Costs incurred by the United States by remitting a cashier's or certified check(s) for \$200,000 made payable to the "Hazardous Substance Superfund," within 30 days of the effective date of this Order to:

Mellon Bank
EPA Region 8
Attn: Superfund Accounting
P.O. Box 360859
Pittsburgh, PA 15251

or other such address as EPA may designate in writing or by wire transfer to the Federal Reserve Bank in New York to:

ABA=021030004
TREAS NYC/CTR/
BNF=/AC-68011008

Respondents shall simultaneously transmit a copy of the check to:

Financial Management Officer
EPA Region 8, TMS-F
999 18th Street, Suite 300
Denver, CO 80202

and

Cost Recovery Program Manager
EPA Region 8, ENF-T
999 18th Street, Suite 300
Denver, CO 80202

Payments shall be designated as "Response Costs - Northwest Oil Drain Site" and shall reference the payor's name and address, the EPA site identification number **O8X7**, and the docket number of this Order.

b. In the event that the payment for Past Response Costs are not made within 30 days of the effective date of this Order, Respondents shall pay interest on the unpaid balance. Interest is established at the rate specified in Section 107(a) of CERCLA. The interest on Past Response Costs shall begin to accrue on the effective date of this Order. Interest shall accrue at the rate specified through the date of the payment. Payments of interest made under this paragraph shall be in addition to such other remedies or sanctions available to the United States by virtue of Respondents' failure to make timely payments under this Section.

27. a. Respondents shall reimburse EPA for all Future Response Costs, not inconsistent with the NCP, incurred by the United States. The PRP Respondents' obligation to pay EPA's Future Response Costs in the PRP Work Area is joint and several. Salt Lake County shall share joint and several liability with the PRP Respondents for all Future Response Costs relating to the County Work Area.

b. On a periodic basis, EPA shall submit to Respondents a bill for future response costs that includes EPA's certified Agency Financial Management Systems summary data (*e.g.*, SCORPIOS Reports) or other Region VIII prepared summary report as certified by EPA, for the applicable billing cycle. Respondents shall remit a cashier's or certified check for

the amount of the bill made payable to the "Hazardous Substance Superfund," within 30 days of receipt of this bill to:

Mellon Bank
EPA Region 8
Attn: Superfund Accounting
P.O. Box 360859
Pittsburgh, PA 15251

or other such address as EPA may designate in writing or by wire transfer to the Federal Reserve Bank in New York to:

ABA=021030004
TREAS NYC/CTR/
BNF=/AC-68011008

Respondents shall simultaneously transmit a copy of the check to:

Financial Management Officer
EPA Region 8, TMS-F
999 18th Street, Suite 300
Denver, CO 80202

and

Cost Recovery Program Manager
EPA Region 8, ENF-T
999 18th Street, Suite 300
Denver, CO 80202

Payments shall be designated as "Response Costs - Northwest Oil Drain Site" and shall reference the payor's name and address, the EPA site identification number **O8X7**, and the docket number of this Order.

c. In the event that the payment for Future Response Costs are not made within 30 days of the Respondents' receipt of the bill, Respondents shall pay interest on the unpaid balance. Interest is established at the rate specified in Section 107(a) of CERCLA. The interest on Future Response Costs shall begin to accrue on the date of the Respondents' receipt of the bill. Interest shall accrue at the rate specified through the date of the payment. Payments of

interest made under this paragraph shall be in addition to such other remedies or sanctions available to the United States by virtue of Respondents' failure to make timely payments under this Section.

28. a. Respondents may dispute all or part of a bill for Future Response Costs submitted under this Order, if Respondents allege that EPA has made an accounting error, or if Respondents allege that a cost item is inconsistent with the NCP. If any dispute over costs is resolved before payment is due, the amount due will be adjusted as necessary. If the dispute is not resolved before payment is due, Respondents shall pay the full amount of the uncontested costs into the Hazardous Substance Fund as specified above on or before the due date. Within the same time period, Respondents shall pay the full amount of the contested costs into an interest-bearing escrow account. Respondents shall simultaneously transmit a copy of both checks to the Cost Recovery Program Manager. Respondents shall ensure that the prevailing party or parties in the dispute shall receive the amount upon which they prevailed from the escrow funds plus interest within 10 days after the dispute is resolved.

b. Notification of disputes regarding all or part of a bill for Future Response Costs shall be sent to:

Cost Recovery Program Manager
EPA Region 8, ENF-T
999 18th Street, Suite 300
Denver, CO 80202

Respondents shall notify EPA's Cost Recovery Program Manager in writing of their objections within thirty (30) days of receipt of the bill that they are disputing all or part of the bill for Future Response Costs. The Respondents' written objections shall define the dispute, state the basis of Respondent's objections, and be sent certified U.S. mail, return receipt requested or by other mail delivery service with a delivery tracking and verification system. EPA and the Respondents then have an additional thirty (30) days to reach agreement. If an agreement is not reached within thirty (30) days, the Respondent may request a written determination by the Assistant Regional Administrator for Enforcement, Compliance and Environmental Justice, Region 8. The Assistant Regional Administrator's determination is EPA's final decision. Respondent shall proceed in accordance with EPA's final written decision regarding the matter in dispute, regardless of whether Respondent agrees with the decision.

IX. DISPUTE RESOLUTION

29. a. The parties to this Order shall attempt to resolve, expeditiously and informally, any disagreements concerning this Order. Unless otherwise expressly provided for in this Order, the dispute resolution procedures of this Section shall be the exclusive mechanism for

resolving disputes arising under this Order. Any disputes concerning activities or deliverables required under this Order (except Paragraph 28, above) for which dispute resolution has been expressly provided for, shall be resolved as follows:

b. If a Respondent objects to any EPA action taken pursuant to this Order, that Respondent shall notify EPA's Project Coordinator and the non-objecting Respondents in writing of its objections within thirty (30) days of receipt of the disapproval notice or requirement. The Respondent's written objections shall define the dispute, state the basis of Respondent's objections, and be sent certified U.S. mail, return receipt requested or by other mail delivery service with a delivery tracking and verification system. EPA and the Respondent then have an additional thirty (30) days to reach agreement. If an agreement is not reached within thirty (30) days, the Respondent may request a written determination by the Director, Superfund Remedial Program of the Office of Ecosystems Protection and Remediation, EPA Region 8 office. The Director's determination is EPA's final decision. Respondent shall proceed in accordance with EPA's final written decision regarding the matter in dispute, regardless of whether Respondent agrees with the decision. If the Respondent does not agree to perform or do not actually perform the Work in accordance with EPA's final written decision, EPA reserves the right in its sole discretion to conduct the Work itself, to seek reimbursement from the Respondent, to seek enforcement of the decision, to seek stipulated penalties, and/or to seek any other appropriate relief.

c. For the PRP Respondents, dispute resolution has been expressly provided for any activities or deliverables required under this Order (except Paragraph 28, above) for the PRP Group Work Area. For Respondent Salt Lake County, dispute resolution has been expressly provided for any activities or deliverables required under this Order (except Paragraph 28, above) in the County Work Area only.

30. Each Respondent is not relieved of its obligations to perform and conduct activities and submit deliverables on the schedule set forth in the Work Plan, while a matter is pending in dispute resolution. The invocation of dispute resolution does not stay the accrual of stipulated penalties under this Order.

X. FORCE MAJEURE

31. Respondents agree to perform all requirements under this Order within the time limits established under this Order, unless the performance is delayed by a *force majeure*. For purposes of this Order, a *force majeure* is defined as any event arising from causes beyond the control of Respondents or of any entity controlled by Respondents), including but not limited to their contractors and subcontractors, that delays or prevents performance of any obligation under this Order despite Respondents' best efforts to fulfill the obligation. *Force majeure* does not include financial inability to complete the Work or increased cost of performance.

32. Respondents shall notify EPA orally within 48 hours after the event, and in writing within five (5) days after Respondents become or should have become aware of events which constitute a *force majeure*. Such notice shall: identify the event causing the delay or anticipated delay; estimate the anticipated length of delay, including necessary demobilization and re-mobilization; state the measures taken or to be taken to minimize the delay; and estimate the timetable for implementation of the measures. Respondents shall take all reasonable measures to avoid and minimize the delay. Failure to comply with the notice provision of this Section, shall waive any claim of *force majeure* by the Respondents.

33. If EPA determines a delay in performance of a requirement under this Order is or was attributable to a *force majeure*, the time period for performance of that requirement shall be extended as deemed necessary by EPA. Such an extension shall not alter Respondent's obligation to perform or complete other tasks required by the Order which are not directly affected by the *force majeure*.

XI. STIPULATED AND STATUTORY PENALTIES

34. For each day, or portion thereof, that a Respondent fails to perform fully any requirement of this Order in its own Work Area in accordance with the schedule established pursuant to this Order, Respondents shall be jointly and severally liable for stipulated penalties as follows:

- a. For the following deliverables:
 - (i) An original and any revised Work Plan, including the sampling and analysis plan, the health and safety plan and the QA/QC procedures, as required by Paragraphs 16, 17 and 18.
 - (ii) An original and any revised interim report, as required by the EPA-approved Work Plan.
 - (iii) An original and any revised Final report, as required by Paragraph 20.

<u>Period of Failure to Comply</u>	<u>Penalty Per Violation Per Day</u>
1 st through 14 th day	\$ 250
15 th through 28 th day	\$ 500
29 th through 45 th day	\$1,000
46 th day and beyond	\$2,000

b. For any other instance of non-compliance, including, but not limited to, the failure to submit adequate progress reports and analytical data submittals or any other required deliverables:

<u>Period of Failure to Comply</u>	<u>Penalty Per Violation Per Day</u>
1 st through 14 th day	\$ 250
15 th through 28 th day	\$ 500
29 th through 45 th day	\$1,000
46 th day and beyond	\$2,000

35. a. Upon receipt of written demand for stipulated penalties by EPA, Respondents shall make payment to EPA within 30 days. Interest shall accrue on late payments as of the date the payment is due which is the date of the violation or act of non-compliance triggering the stipulated penalties.

b. Even if violations are simultaneous, separate penalties shall accrue for separate violations of this Order. Penalties accrue and are assessed per violation per day. Penalties shall accrue regardless of whether EPA has notified Respondents of a violation or act of noncompliance. The payment of penalties shall not alter in any way Respondents' obligation(s) to complete the performance of the Work required under this Order.

c. Respondents may dispute EPA's right to the amount of penalties assessed by invoking the dispute resolution procedures as provided herein. Penalties shall accrue, but need not be paid, during the dispute resolution period. If Respondents do not prevail upon resolution, all penalties and interest accrued shall be due to EPA within thirty (30) days of resolution of the dispute. If Respondents prevail upon resolution, no penalties or interest shall be paid.

36. The stipulated penalties provisions do not preclude EPA from pursuing any other remedies or sanctions which are available to EPA because of Respondents' violation of or failure or refusal to comply with this Order. Such remedies and sanctions include, but are not limited to, the assessment of penalties pursuant to Section 109 of CERCLA, 42 U.S.C. §9609, the award of treble damages pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3), conduct of all or part of the Work by EPA. Payment of stipulated penalties does not alter Respondents' obligation to complete performance under this Order. Nothing in this Order prohibits EPA, in its sole unreviewable discretion, from waiving, in whole or in part, any stipulated penalties owed to it under this Section.

XII. COVENANT NOT TO SUE

37. a. In consideration of the Work to be performed by the Respondents and the payment of Response Costs and except as specifically provided in Section XIII (Reservations of Rights) above, EPA covenants not to sue Respondents pursuant to Sections 106 or 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), Sections 309(b) and 311 of the Clean Water Act, 42 U.S.C. § 1319 and § 1321 and Section 1002 (a) and (b)(1) of the Oil Pollution Act of 1990, 33 U.S.C. § 2702(a) and (b)(1) for the Site, for the Matters Addressed (as defined herein) in this Order. Respondents are therefore entitled to contribution protection for the Matters Addressed in this Order as provided by Section 113(j) of CERCLA, 42 U.S.C. § 9613(j).

b. This covenant shall take effect upon the effective date of this Order.

38. These covenants not to sue are conditioned upon the complete and satisfactory performance by Respondents of their respective obligations under this Order. The United States' covenant not to sue extends to Respondents, and to their predecessors-in-interest, affiliates, parents, successors and assigns but only to the extent that the liability of such predecessors-in-interest, affiliates, parents, successors and assigns arises out of Respondents' liability as set forth herein. The United States' covenant not to sue does not extend to any other person.

XIII. RESERVATION OF RIGHTS

39. a. Except as specifically provided in this Order, nothing herein shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health or welfare or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants or contaminants, or hazardous or solid waste on, at, or from the Site pursuant to CERCLA or any other applicable federal law or regulation. Further, nothing herein shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Order, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring the Respondents in the future to perform additional activities pursuant to CERCLA or any other applicable law.

b. The covenant not to sue set forth in Section XII above does not pertain to any matters other than those expressly identified therein. EPA reserves, and this Order is without prejudice to, all rights against Respondents with respect to all other matters, including, but not limited to:

1. claims based on a failure by Respondents to meet a requirement of this Order;

2. liability for costs not included within the definitions of Past Response Costs or Future Response Costs;
3. liability for performance of response action other than the Work;
4. criminal liability;
5. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
6. liability arising from the past, present, or future disposal, release or threat of release of hazardous substances, pollutants or contaminants outside of the Site; and
7. liability for costs incurred or to be incurred by the Agency for Toxic Substances and Disease Registry related to the Site.

c. Work Takeover. In the event EPA determines that Respondents have ceased implementation of any portion of the Work, are seriously or repeatedly deficient or late in their performance of the Work, or are implementing the Work in a manner which may cause an endangerment to human health or the environment, EPA may assume the performance of all or any portion of the Work as EPA determines necessary. Respondents may invoke the procedures set forth in Section IX (Dispute Resolution) to dispute EPA's determination that takeover of the Work is warranted under this Paragraph. Costs incurred by the United States in performing the Work pursuant to this Paragraph shall be considered Response Costs that Respondents shall pay pursuant to Section VIII (Reimbursement of Costs). Notwithstanding any other provision of this Order, EPA retains all authority and reserves all rights to take any and all response actions authorized by law.

XIV. OTHER CLAIMS

40. By issuance of this Order, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents. The United States or EPA shall not be deemed a party to any contract entered into by the Respondents or their directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Order. Further, except as expressly provided in Section XII (Covenant Not To Sue), and Section XV (Contribution Protection), nothing in this Order constitutes a satisfaction of or release from any claim or cause of action against the Respondents or any person not a party to this Order, for any liability such person may have under CERCLA, other statutes, or the common law, including but not limited to

any claims of the United States for costs, damages and interest under Sections 106(a) and 107(a) of CERCLA, 42 U.S.C. Sections 9606(a) and 9607(a).

41. This Order does not constitute a preauthorization of funds under Section 111(a)(2) of CERCLA, 42 U.S.C. § 9611(a)(2). The Respondents waive any claim to payment under Sections 106(b), 111, and 112 of CERCLA, 42 U.S.C. §§ 9606(b), 9611, and 9612, against the United States or the Hazardous Substance Superfund arising out of any action performed under this Order.

42. No action or decision by EPA pursuant to this Order shall give rise to any right to judicial review except as set forth in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

XV. CONTRIBUTION PROTECTION

43. With regard to claims for contribution against Respondents for “Matters Addressed” in this Order, the Parties hereto agree that the Respondents are entitled to protection from contribution actions or claims to the extent provided by Section 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. Sections 9613(f)(2) and 9622(h)(4). The Parties hereto also agree that Respondents’ predecessors-in-interest, affiliates, parents, successors and assigns are entitled to protection from contribution actions or claims to the extent provided by Section 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. Sections 9613(f)(2) and 9622(h)(4) but only to the extent that the liability of such predecessors-in-interest, affiliates, parents, successors and assigns arises out of Respondents’ liability as set forth and settled herein. Contribution protection does not extend to any other person.

44. Nothing in this Order precludes the United States or the Respondents from asserting any claims, causes of action or demands against any persons not parties to this Order for indemnification, contribution, or cost recovery.

XVI. INDEMNIFICATION

45. Respondents agree to indemnify, save and hold harmless the United States, its officials, agents, contractors, subcontractors, employees and representatives from any and all claims or causes of action: (A) arising from, or on account of, acts or omissions of Respondents, Respondents’ officers, heirs, directors, employees, agents, contractors, subcontractors, receivers, trustees, successors or assigns, in carrying out actions pursuant to this Order; and (B) for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between (any one or more of) Respondents, and any persons for performance of work on or relating to the Site, including claims on account of construction delays. In addition, Respondents agree to pay the United States all costs incurred by the United States, including litigation costs arising from or

on account of claims made against the United States based on any of the acts or omissions referred to in the preceding paragraph.

XVII. COVENANT NOT TO SUE BY RESPONDENTS

46. Respondents covenant not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Work, Past Response Costs, Future Response Costs, or this Order, including, but not limited to:

- a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund established by 26 U.S.C. § 9507, based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;
- b. any claim arising out of response actions at or in connection with the Site, including any claim under the United States Constitution, the Utah Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; or
- c. any claim against the United States pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the Site.

47. Nothing in this Agreement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d). Nothing in this Section shall preclude Respondents from asserting a claim against the United States or its contractors should an act or omission on their part result in personal injury or property damage during performance of the Work.

XVIII. INSURANCE

48. At least seven (7) days prior to commencing any on-site work under this Order, the Respondents shall secure, and shall maintain for the duration of this Order, comprehensive general liability insurance and automobile insurance with limits of \$1 million, combined single limit. Within the same time period, the Respondents shall provide EPA with certificates of such insurance and a copy of each insurance policy. If the Respondents demonstrate by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering some or all of the same risks but in an equal or lesser amount, then the Respondents need provide only that portion of the insurance described above which is not maintained by such contractor or subcontractor.

XIX. FINANCIAL ASSURANCE

49. Within 30 days of the Effective Date, the PRP Respondents shall establish and maintain financial security in the amount of \$5 million in one or more of the following forms:

- a. A surety bond guaranteeing performance of the Work;
- b. One or more irrevocable letters of credit;
- c. A trust fund;
- d. A guarantee to perform the Work by one or more parent corporations or subsidiaries, or by one or more unrelated corporations that have a substantial business relationship with at least one of PRP Respondents; or
- e. A demonstration that one or more of the PRP Respondents satisfy the requirements of 40 C.F.R. Part 264.143(f).

50. If the PRP Respondents seek to demonstrate the ability to complete the Work pursuant to Paragraphs 49(a), (b) or (c) through a guarantee by a third party, the PRP Respondents shall demonstrate that the guarantor satisfies the requirements of 40 C.F.R. Part 264.143. If the PRP Respondents seek to demonstrate their ability to complete the Work by means of the financial test or the corporate guarantee pursuant to Paragraph 49(d) or (e), they shall resubmit sworn statements conveying the information required by 40 C.F.R. Part 264.143(f) annually, within 90 days after the close of each succeeding fiscal year. The PRP Respondents shall substitute “Work” for “closure” or “post-closure” and reference the Order as appropriate when establishing financial assurance pursuant to this Section. In the event that EPA determines at any time that the financial assurances provided pursuant to this Section are inadequate, the PRP Respondents shall, within 30 days of receipt of notice of EPA’s determination, obtain and present to EPA for approval one of the other forms of financial assurance listed in Paragraph 49. The PRP Respondents’ inability to demonstrate financial ability to complete the Work shall not excuse performance of any activities required under this Order.

51. If, after the Effective Date, the PRP Respondents can show that the estimated cost to complete the remaining Work has diminished below the amount set forth in Paragraph 49, the PRP Respondents may, on any anniversary date of the Effective Date, or at any other time agreed to by the Parties, reduce the amount of the financial security provided under this Section to the estimated cost of the remaining Work to be performed. The PRP Respondents shall submit a proposal for such reduction to EPA, in accordance with the requirements of this Section, and may reduce the amount of the security upon approval by EPA.

52. The PRP Respondents may change the form of financial assurance provided under this Section at any time, upon notice to and approval by EPA, provided that the new form of assurance meets the requirements of this Section. In the event of a dispute, the PRP Respondents may change the form of the financial assurance only in accordance with the written decision resolving the dispute.

53. The PRP Respondents shall submit the original financial assurance documents required by this Section to EPA Region 8 for review to:

Daniela Golden, 8ENF-T
EPA Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466
(303) 312-6772

XX. MODIFICATIONS

54. a. If Respondents seek permission to deviate from any approved Work Plan or schedule, Respondents' Project Coordinator shall submit a written request to EPA for approval outlining the proposed Work Plan modification and its basis. Modifications to the EPA-approved Work Plan may only be granted in writing by the EPA OSC. Modifications to any plan or schedule other than the approved Work Plan may be made in writing by the OSC or at the OSC's oral direction. If the OSC makes an oral modification, it shall be memorialized in writing by the Respondents within 5 days; provided, however, that the effective date of the modification shall be the date of the OSC's oral direction. Any other requirements of the Order may be modified in writing by mutual agreement of the parties.

b. No informal advice, guidance, suggestion, or comment by EPA regarding reports, plans, specifications, schedules, or any other writing submitted by the Respondents shall relieve the Respondents of their obligation(s) to obtain such formal approval as may be required by this Order and to comply with all requirements of this Order unless it is formally modified.

XXI. NOTICE OF COMPLETION AND TERMINATION

55. a. This Order shall terminate when Respondents demonstrate in writing and certify to the satisfaction of EPA that all activities required under this Order, payment of Response Costs, and payment of any stipulated penalties demanded by EPA, have been performed or paid, and EPA has approved the certification in writing. This notice shall not, however, terminate Respondents' obligation(s) to comply with any continuing obligation of this Order.

b. The certification described in subparagraph a. above shall be signed by an authorized representative of each Respondent. The representative shall make the following attestation:

I certify that the information contained in or accompanying this certification is true, accurate, and complete to the best of my knowledge, information and belief.

56. When EPA determines, after EPA's review of the Final Report and the certification provided by Respondents in accordance with Paragraph 55, that all removal actions have been fully performed in accordance with this Order, EPA shall provide notice to the Respondents. If EPA determines that any removal actions have not been completed in accordance with this Order, EPA shall notify the Respondents of its determination and shall provide a list of the deficiencies and require that Respondents modify the Work Plan, if appropriate, in order to correct such deficiencies. The Respondents shall implement the modified and approved Work Plan and shall submit a modified Final Report in accordance with the EPA notice. Failure by Respondents to implement the approved modified Work Plan shall be a violation of this Order.

XXI. SEVERABILITY

57. If a court issues an order that invalidates any provision of this Order or finds that a Respondent has sufficient cause not to comply with one or more provisions of this Order, Respondents shall remain bound to comply with all provisions of this Order not invalidated or determined to be subject to a sufficient cause defense by the court's order.

XXII. EFFECTIVE DATE AND SIGNATORIES

58. This Order shall be effective immediately upon the signature of EPA, following the signatures of the Respondents.

59. The undersigned representative of the Respondent certifies that he/she is fully authorized to enter into the terms and conditions of this Consent Order and to execute and legally bind the parties they represent to this document.

60. This Consent Order may be executed in any number of counterparts, each of which when executed and delivered to EPA shall be deemed to be an original, but such counterparts shall together constitute one and the same document.

XXIII. APPROPRIATIONS AND FISCAL RESTRICTIONS

61. The City and County are political subdivisions of the State of Utah and are subject to debt limitations as required by Article XIV, Section 4 of the Utah Constitution. Under this

provision, no action by the City or County committing funds beyond the current year can be legally binding. Although the City and County have budgeted and reserved funds for the Work to be performed in accordance with this Order in the current fiscal year, both the City and County's abilities to perform their obligations under this Order may be limited by the appropriation of funds by the Salt Lake City Council and Salt Lake County Council, respectively, in subsequent years. Both the City and the County agree to seek, in good faith, the funds necessary to perform the Work or otherwise comply with the terms of this Order in future budgets and to undertake all activities necessary to secure the necessary approvals and appropriations of said funds. Failure to obtain the full amount of the necessary funds to complete the Work or otherwise comply with the terms of this Order, however, is not considered a force majeure as that term is defined in Section X (Force Majeure) and does not excuse the Respondents' compliance with all terms of this Order. In the event either the City or County's future appropriations are insufficient to allow complete compliance with this Order, EPA may, in its sole unreviewable discretion, elect to allow the City and/or County to partially comply with this Order, to renegotiate or modify all or a portion of this Order or withdraw for this Order in its entirety.

XXIV. PUBLIC COMMENT

62. This Agreement shall be subject to a public comment period of not less than 30 days pursuant to Section 122(i) of CERCLA, 42 U.S.C. § 9622(i). In accordance with Section 122(i)(3) of CERCLA, EPA may modify or withdraw its consent to this Agreement if comments received disclose facts or considerations which indicate that this Agreement is inappropriate, improper or inadequate.

It is so ORDERED and AGREED:

ON BEHALF OF THE UNITED STATES OF AMERICA:

BY: **SIGNED**
Thomas L. Sansonetti
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20530

DATE: **7-9-03**

BY: **SIGNED**
Dale Vodenhal, Director
Superfund Remedial Program
Office of Ecosystems Protection
& Remediation
EPA Region 8

DATE: **9/18/03**

BY: **SIGNED**
Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
& Environmental Justice
EPA Region 8

DATE: **9/12/03**

ON BEHALF OF SALT LAKE CITY CORPORATION:

BY: _____
LeRoy W. Hooton, Jr.
Director of Public Utilities
Salt Lake City Corporation

DATE: _____

ON BEHALF OF SALT LAKE COUNTY:

BY: **SIGNED**
Nancy Workman or Designee
Salt Lake County Mayor

State of Utah)
):ss
County of Salt Lake)

On this **21** day of **August**, 2003 personally appeared before me **David Marshall**, who being duly sworn, did say that s/he is the **Chief Administrative Officer** of Salt Lake County, Office of the Mayor, and that the foregoing instrument was signed on behalf of Salt Lake County, by authority of law.

Karen R. Lowe
Notary Public
Residing in Salt Lake County

[SEAL]

APPROVED AS TO FORM:

SIGNED
Deputy District Attorney

DATE: **August 21, 2003**

ON BEHALF OF BP PRODUCTS NORTH AMERICA INC. :

BY: **SIGNED**

Joan L. Wales
Chief Operating Officer
Group Environmental Management
A BP Affiliated Company
For BP Products North America Inc.

DATE: _____

ON BEHALF OF CHEVRON U.S.A. INC.:

BY: **SIGNED**

Richard J. Harris
Assistant Secretary
Chevron U.S.A. Inc.

DATE: **Aug 12, 2003**

**IF YOU WOULD LIKE COPIES OF THE ATTACHMENTS, PLEASE CONTACT THE
REGIONAL HEARING CLERK.**

THIS DOCUMENT WAS FILED IN THE RHC'S OFFICE ON SEPTEMBER 23, 2003.